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Attorney for Defendant CBRE Services, Inc.

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Irma Gomez, a married woman, individual

Plaintiff,

vs.

Wal-Mart Inc., a Delaware corporation;

Defendant.

No.

**DEFENDANT CBRE, INC.'S
NOTICE OF REMOVAL**

TO: The Honorable United States District Court Judge:

INTRODUCTION

Pursuant to 28 U.S.C. §1332(a), 28 U.S.C. §1441(a), 28 U.S.C. §1441(b), and in compliance with 28 U.S.C. §1446, CBRE, Inc. ("CBRE") timely removes this civil state court action brought by Irma Gomez ("Gomez") to the United States District Court for the District of Arizona. The civil action is pending in the Pima County Superior Court as Cause No. C20220401; *Irma Gomez v. Wal-Mart, Inc., Stromiga, Inc., Roll-It, LLC, and CBRE, Inc.*; (the "State Court Action").

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Removal to the U.S. District Court, District of Arizona, is proper because:

- a. Plaintiff is an individual residing in the state of Arizona and a citizen of the State of Arizona;
- b. Defendant CBRE is a Delaware Corporation with its principal place of business in Texas;
- c. Defendant Wal-Mart Inc., Delaware Corporation with its principal place of business in Arkansas;
- d. Defendant Stromiga, Inc., is a California Corporation with its principal place of business in California.
- e. Defendant Roll-It, LLC is a California limited liability company with its principal place of business in California;
- f. The District Court of the United States has original subject matter jurisdiction (diversity) of this action because (a) this is a civil action between citizens of different states; and (b) the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interests and costs; and
- g. This Notice of Removal is filed within thirty days after March 29, 2022, the date on which Plaintiff served CBRE with her original Complaint, which asserted claims for which the amount in controversy exceeds \$75,000.00, exclusive of interests and costs.

STATEMENT OF GROUNDS FOR REMOVAL

I. This Court Has Diversity Jurisdiction Pursuant to 28 U.S.C. § 1332.

A. There is complete diversity among the legitimate parties.

1. According to the Original Complaint, Gomez “is a resident of Pima County, Arizona.” *See* Complaint in matter No. C20220401, Superior Court of Arizona, Pima County (“Complaint”) at ¶ 1, attached as **Exhibit 1**.

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1 2. Defendant CBRE is a corporation that is incorporated in the State of Delaware.
2 Its principal place of business is 2100 McKinney Avenue, Suite 700, Dallas, Texas, 75201.
3 Therefore, CBRE's citizenship for the purpose of removal is Delaware and Texas.

4
5 3. Defendant Wal-Mart, Inc. is a corporation that is incorporated in the State of
6 Delaware. Its principal place of business is 702 S.W. 8th Street, Bentonville, Arkansas 72716.
7 Therefore, Wal-Mart, Inc.'s citizenship for the purpose of removal is Delaware and Arkansas.

8
9 4. Defendant Stromiga, Inc. is a corporation that is incorporated in the State of
10 California. Its principal place of business is 14335 Big Basin Way, #250, Saratoga, California.
11 Therefore, Stromiga, Inc.'s citizenship for the purpose of removal is California.

12 5. Defendant Roll-It, LLC is a limited liability company in the State of California.
13 Its principal place of business is 21148 Michales Dr., Saratoga, California 95070. Therefore,
14 Roll-It, LLC's citizenship for the purpose of removal is California.

15
16 **B. The Amount in Controversy Exceeds \$75,000.**

17 The determination of diversity jurisdiction is made at the time of removal. *St. Paul*
18 *Mercury Indemnity Co. v. Red Cab Co.*, 303 U.S. 283 (1938); *see also Rogers v. Wal-Mart*
19 *Stores, Inc.* 230 F.3d 868, 871 (6th Cir. 2000). Included in the calculation of the jurisdictional
20 minimum are general damages, special damages, punitive damages, and attorneys' fees. *See*
21 *Ansley v. Metropolitan Life Ins. Co.*, 215 F.R.D. 575 (D. Ariz. 2003); *see also Chabner v.*
22 *United of Omaha Life Ins. Co.*, 225 F.3d 1042, 1046 n.3 (9th Cir. 1998); *Galt G/S v. JSS*
23 *Scandinavia*, 142 F.3d 1150, 1155-56 (9th Cir. 1998).
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1 Here, the evidence establishes by a preponderance of the evidence the jurisdictional
2 minimum has been met. Gomez asserts her injuries include "a fractured right wrist requiring
3 surgical repair and insertion of hardware, and a fractured left toe." *See* Complaint at ¶ 15.
4 Similarly, Gomez certified her damages qualify this matter as a Tier 2 case, which under Ariz.
5 R. Civ. P. Rule 26.2(c)(3) Gomez asserts her damages are more than \$50,000 and less than
6 \$300,000. *See* Complaint at ¶ 18. Thus, the amount demanded by Gomez exceeds jurisdictional
7 minimum for diversity of citizenship jurisdiction.
8
9

10 **II. This Notice of Removal is Timely.**

11 Gomez filed the Complaint on January 31, 2022. Gomez served CBRE with the
12 Complaint on March 29, 2022. This Notice of Removal is filed before the 30 day deadline of
13 April 29, 2022. Thus, this Notice of Removal is filed timely. *See* 28 U.S.C. § 1446(b).
14

15 CBRE has attached copies of the Complaint, Summons, Rule 102a Fastar Certificate,
16 and Pima County Superior Court's civil docket. *See Exhibits 1-4*, respectively. CBRE has no
17 other court documents in its possession. Pursuant to 28 U.S.C. §1446(d) CBRE has given
18 written notice of removal to all adverse parties, and concurrently filed a copy of this Notice of
19 Removal with the clerk of Pima County Superior Court – the court in which the State Court
20 action was filed.
21

22 **PENDING MOTIONS**

23 There are no pending motions.
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CONCLUSION

For the stated reasons, CBRE removes the State Court Action to the United States District Court for the District of Arizona.

DATED this 28th day of April, 2022.

TYSON & MENDES, LLP

By: /s/ Sitar Bhatt
Sitar Bhatt
Attorney for Defendant CBRE Services, Inc.

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CERTIFICATE OF SERVICE

I hereby certify that on April 28, 2022, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF Registrants:

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By: /s/ Mersadies Alvarado